

Senate Bill 256  
February 14, 2013  
Presented by Mike Volesky  
Senate Fish and Game Committee

Mr. Chairman and committee members, I am Mike Volesky, representing the director of Montana Fish, Wildlife and Parks (FWP). I am here in opposition to SB 256.

With SB 256, for the first time in Montana, and in a first for a particular species, FWP will be fiscally liable for any and all damage caused by wild bison. By extension, then, that financial burden will fall solely on sportsmen and women.

As you can see from the existing statute in the bill (subsection 7), the Department is already responsible for extensive planning related to any bison translocation, and is financially liable for damages if it does not follow that plan. But SB 256 takes the liability one step too far. It also includes financial liability for bison that leave Yellowstone Park, even if we are strictly following the current Interagency Bison Management Plan that allows for this limited tolerance of bison in Montana near Yellowstone.

In other words, the collective liability for damages now held by the 5 IBMP agencies (3 federal and 2 state) would shift to just one state agency, FWP, and ultimately only to sportsmen. This is despite the fact that SB 212 from the 2011 legislative session made it very clear that the new planning provisions did not apply to Yellowstone bison, but only to bison that may be transplanted elsewhere in Montana.

Additionally, under SB 256, state liability would be extended to cover the costs of sheriff's offices or others who help to ensure public safety related to moving bison from roads and other measures. Currently, FWP law enforcement works cooperatively with other law officers to provide support for emergency situations and mutual enforcement responsibilities. SB 256 seems to formally eliminate such cooperation when it comes to public safety and bison. It encourages inefficiency, and is contrary to the commitment for mutual aid among law enforcement agencies.

Subsection 5(f) of the bill would add the requirement that FWP estimate future damages and costs in the management plan, if transplanted bison escape their designated area. Unfortunately, this is likely an exercise in futility. The bill's fiscal note reads zero, because those costs simply can't reasonably be determined. Keep in mind, however, that the management actions in the plan are very specific. They require FWP and other agencies to respond to problems that may arise, and the agencies are committed to being responsive. In fact, FWP has a warden stationed in West Yellowstone and another in Gardiner to immediately address public safety and property concerns. Other agencies have immediate staff on the ground as well.

FWP has also worked with nonprofit groups to establish a fund to reimburse landowners who wish to install fencing to keep bison from their property. Some of that fencing has already been installed in the Gardiner Basin, and funding remains to this day for interested landowners.

Living with wildlife in Montana has always involved making accommodations in lifestyle and property management. In return, we all enjoy the benefits of wildlife on the landscape. Many are intangible, but some are quite tangible, like monetary returns from landowner outfitting and tourism. We fence our gardens and yards to prevent damage from deer, we do the same with our stackyards for elk, and we take precautions to ensure our families and pets are not at risk from large predators. It's part of living in this great state. Living with bison on the landscape should not be singled out as something different that requires compensation for occasional damage. By way of example, the residents of Gardiner, MT have coexisted well with bison for decades, with many animals in town each year.

The Montana Supreme Court has addressed this issue in its Rathbone decision, stating, in part, that "One who acquires property in Montana does so with notice and knowledge of the presence of wild game." The court continues, "Wild game...cannot like domestic animals be controlled through an owner. Accordingly, a property owner in this state must recognize the fact that there may be some injury to property or inconvenience from wild game for which there is no recourse."

That said, we all recognize the key stewardship role landowners play for wildlife habitat. And we know there are impacts associated with animals like bison, deer, elk, and antelope. That's why the department spends over \$350,000 every year through its Game Damage Program, which helps landowners to proactively prevent or reduce damage. In contrast, SB 256 proposes compensation for damage by one species, and it reactively serves to divide landowners and sportsmen, rather than to bring them together through solutions we currently use, like providing fencing for stackyards, hazing, dispersal measures, herders, scare guns, kill permits, and special game damage hunts.

On that same note, it's worth pointing out that the use of sportsmen's license dollars to fund compensation for damage caused by bison would be classified as a diversion by the USFWS, and put at risk our federal dollars for fish and wildlife management.

For these reasons, the Department opposes SB 256 and respectfully requests a "do not pass." Thank you for the opportunity to testify.